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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,028	12/19/2001	Frank B. Porter JR.	0128	5899
7590	03/04/2004		EXAMINER	
Sam Pasternack, Esq. Choate, Hall & Stewart 53 State Street Exchange Place Boston, MA 02109				HAYES, BRET C
		ART UNIT		PAPER NUMBER
		3644		
DATE MAILED: 03/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/025,028	PORTER, FRANK B.	
	Examiner Bret C Hayes	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 January 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2 and 4 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 and 4 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for means for shortening *or* extending the selected time, does not reasonably provide enablement for means for shortening *and* extending the selected time.

The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to fabricate the invention commensurate in scope with these claims.

Examiner apologizes for this most recent 112 rejection, but after discussing the claim language with a Primary Examiner more familiar with the art, it was decided that the claimed invention could not perform both feats simultaneously, which is how the limitation is interpreted.

Examiner suggests replacing “and” with --or--, but cautions, as indicated previously, that given an alternative, the office only has to provide for one or the other to reject the claim based on prior art.

3. Claim 2 is also rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3,115,834 to Schwartz et al. (Schwartz) in view of 6,014,932 to Mardirossian.
6. Re – claim 1, Schwartz discloses the invention substantially as claimed. Schwartz discloses a weapon **161**; and time apparatus means for disarming the weapon **161** after a selected time has elapsed, set forth at col. 1, lines 14 – 20, further including means for shortening or lengthening the selected time before the selected time has elapsed, continuing at col. 1, line 42. Schwartz also discloses recovery of the disarmed weapon at col. 9, line 50. However, Schwartz does not disclose further including means for shortening or extending the selected time after the selected time has elapsed.

Mardirossian teaches further including means for shortening or extending the selected time after the selected time has elapsed, in the same field of endeavor for the purpose of being able to control another's ability to use a weapon – see col. 3, lines 51 – 54.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Schwartz to further include means for shortening or extending the selected time after the selected time has elapsed as taught by Mardirossian in order to control another's ability to use the weapon.

7. Re – claim 2, Schwartz discloses the weapon **161** as a sea mine.
8. Re – claim 4, Schwartz discloses the claimed as applied above, except for the means for shortening or extending the selected time being remote from the weapon.

Mardirossian further teaches means for shortening or extending a selected time being remote from the weapon, beginning at col. 2, line 23, “satellite **3** (or any other airborne vehicle such as an airplane, helicopter, or the like) includes a transmitter for emitting arming signals **13**

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to land mines 5" and the "satellite 3 may also send disarming signals 15 to land mines 5", in the same field of endeavor for the purpose of arming and disarming the weapon.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Schwartz to include the means being remote as taught by Mardirossian in order to arm and disarm the weapon.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 2 and 4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306 – 4159. The fax number is (703) 872 – 9306.

bh

3/2/04

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